

Technical Appendix 4

**Mitigation Opportunities Report
For the La Plata River Corridor**

**Huntington Ranch, Southern Ute Indian Tribe,
Taylor, and Boyle Properties**

Draft Report

Animas-La Plata Project Mitigation Opportunities Report for the La Plata River Corridor

Huntington Ranch, Southern Ute Indian Tribe, Taylor, and Boyle Properties

DRAFT REPORT

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Submitted To:

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PREFACE

The U.S. Bureau of Reclamation (Reclamation), in cooperation with the Ute Mountain Ute and Southern Ute Indian Tribes, states, and other project sponsors, proposes to construct the Animas-La Plata Project (ALP Project) in southwestern Colorado and northwestern New Mexico as set forth in the Colorado Ute Indian Water Rights Settlement Act (Public Law 100-585). Since the completion of the ALP Project's Final Environmental Statement in 1980, Reclamation initiated additional environmental analyses necessary to ensure compliance with the National Environmental Policy Act, Section 404 of the Clean Water Act, Endangered Species Act, as well as other federal and state statutory requirements. The results of these analyses were summarized in the Final Supplement to the Final Environmental Statement (FSFES) for the ALP Project (Reclamation 1996). The FSFES was filed with the U.S. Environmental Protection Agency (EPA) in April of 1996.

Reclamation completed a conceptual mitigation and monitoring plan for the ALP Project and attached it as Appendix M to the FSFES (BIO/WEST, Inc. 1996). The conceptual plan provided a framework for proposed mitigation measures in terms of: hydrology, geomorphology, water quality, riparian-wetlands, fish and wildlife. It was concluded that most impacts to these resources could be mitigated within the La Plata River corridor, especially those unavoidable impacts to native fish and riparian-wetlands.

In 1997, Reclamation initiated an investigation to assess specific mitigation opportunities and potential for properties along the La Plata River corridor located between the Cherry Creek confluence and a point approximately 1 mile downstream of the Long Hollow confluence. This study area includes properties owned by the Southern Ute Indian Tribe, C.W. Huntington, M.& B. Taylor, B.& A. Taylor, and D. Boyle. On May 1, 1997, an interagency scoping meeting was held at Reclamation's offices in Durango, Colorado to discuss mitigation issues and opportunities pertinent to these properties. Participating agencies included personnel from Reclamation, EPA, U.S. Fish and Wildlife Service, Southern Ute Indian Tribe, Colorado Division of Wildlife, New Mexico Department of Game and Fish, San Juan Water Commission, Animas-La Plata Water Conservation District, and BIO/WEST, Inc. Based on the results of this scoping meeting, Reclamation began field studies and analyses to address the mitigation issues raised by the participating agencies.

This document presents the preliminary findings of the investigation. General background about the development of mitigation for the ALP Project is described in Chapter 1. General description of the study area and its resources relative to the La Plata River watershed is provided in Chapter 2. The existing condition of the study area is described in Chapter 3. Potential conservation and mitigation opportunities for riparian-wetlands, fish, wildlife, and threatened and endangered species are described in Chapter 4. Finally, a framework for managing, maintaining, and monitoring the study area as a mitigation site is provided in Chapter 5.

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CHAPTER 1. INTRODUCTION

1.1 BACKGROUND

Reclamation updated environmental compliance for the Animas-La Plata Project (ALP Project) in 1996 with the completion of the Final Supplement to the 1980 Final Environmental Statement (FSFES) (Reclamation 1996). Although a Record of Decision (ROD) for this document has not been signed, Reclamation assumes that ultimately a project would be constructed within the next few years with impacts similar to those described for the Preferred Alternative in the FSFES. Currently, issues pertaining to the configuration of the ALP Project are being negotiated between various factions as mediated by the State of Colorado, most commonly referred to as the Romer/Schoettler Process.

The purpose of Romer/Schoettler Process is to recommend an ALP Project that would provide long-term water supplies to meet the needs of southwestern Colorado and northwestern New Mexico and to resolve Colorado Ute Indian water rights issues (per P.L. 100-585). Therefore, it is believed that whatever ALP Project is recommended for construction, it would likely include a water storage reservoir and affect flows in the Animas River. It could also affect flows in the La Plata River. The impacts associated with the general ALP Project design were described in the FSFES. The magnitude of these impacts would vary depending on the timing, duration, and amount of river flow depletions, and on the location and construction of project facilities. Based on the assumptions described above, Reclamation believes a mitigation plan that protects, restores and/or enhances portions of key riverine and associated riparian-wetland habitats within the La Plata River corridor, could be generically applied to a wide range of ALP Project configurations. A mitigation plan would be refined to meet the specific mitigation needs of the final ALP Project.

In 1997, Reclamation began an investigation to assess mitigation potential along the La Plata River corridor. The study area for the mitigation assessment is an approximately 5-mile long section of the river corridor located below the Cherry Creek confluence to a point near the Colorado and New Mexico state line (Figure 1-1). This section of the river corridor maintains perennial flow, something that is extremely limited on the La Plata River downstream of Hesperus, Colorado. Lands within the study area are either privately owned or within the Southern Ute Indian Tribe (SUIT) Lands. Within the study area, one ranch with large acreage along the La Plata River corridor became available for purchase in 1996. Also, another property within the study area has more recently been listed for sale.

1.2 PURPOSE AND OBJECTIVES

Although the ecology of the river corridor has been impacted by human development and land uses, it maintains important, and otherwise limited, riverine and riparian-wetland habitats. Both

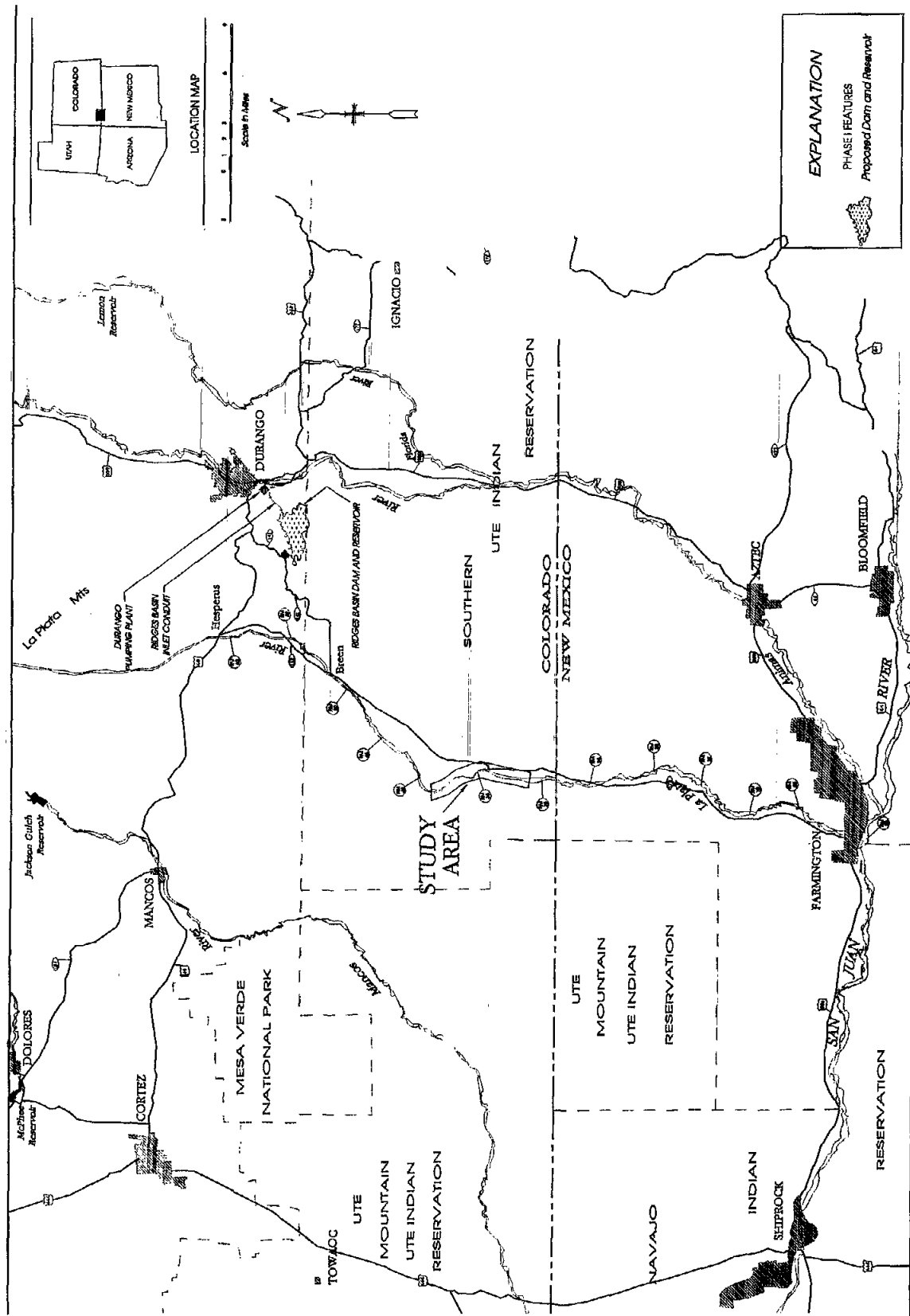


Figure 1.1. — Vicinity map of the La Plata River corridor study area.

the U.S. Fish and Wildlife Service (Service) and the U.S. Environmental Protection Agency (EPA) have concurred with Reclamation on the importance of protecting this section of the La Plata River corridor from further degradation. Accordingly, these agencies have also agreed with Reclamation that mitigation applied within this perennial flowing section of the La Plata River would be appropriate for off-setting ALP Project impacts that would occur within either the Animas or La Plata River drainages.

The purpose for assessing mitigation opportunities and potential within the study area was thus threefold:

- (1) Provide Reclamation the necessary information to make an informed decision whether to acquire (through land title purchase or conservation easement) either all or portions of those privately-owned properties that were assessed.
- (2) Provide the Southern Ute Indian Tribe with information regarding the mitigation opportunities on those Tribal lands that were assessed.
- (3) Provide a basis from which to begin negotiating specific mitigation measures and credits for the ALP Project with other state and federal agencies, most importantly the Service and the EPA.

Therefore, the objectives of the assessment were to:

- (1) Evaluate existing resource conditions within the study area
- (2) Evaluate mitigation potential in terms of restoration, enhancement, and/or creation of riverine and riparian-wetland habitats for each property within the study area
- (3) Develop a range of mitigation measures that could be applied at each property and evaluate the resultant benefits to native fish, wildlife, and threatened and endangered species
- (4) Develop the framework for managing, maintaining, and monitoring the study area as a mitigation site for the benefit of multiple resources
- (5) Estimate costs for implementing mitigation measures and for managing, maintaining, and monitoring the mitigation site.

1.3 LIMITATIONS

Reclamation believes applied mitigation initiatives within the study area would offset future impacts associated with the ALP Project, or provide enhancement opportunities, to native fishes, riparian-wetland habitats, numerous wildlife species and possibly to federally protected

threatened and endangered species. By taking advantage of existing opportunities, there is great potential for developing a contiguous mitigation "package" that protects and improves limited riverine and riparian-wetland habitats along a 5-mile section of the La Plata River corridor. These same opportunities may not exist if Reclamation waits to initiate mitigation efforts until after a final ALP Project configuration is settled.

There is some degree of risk associated with this proactive approach. First, it assumes an ALP Project that affects river flows and includes water storage would be constructed. Second, it assumes if an ALP Project is constructed, it would include federal involvement. Third, it assumes that the mitigation benefits gained from acquiring, protecting, and improving these properties would be viewed by all involved as having substantial value in offsetting ALP Project-related impacts. Last, if no ALP Project is constructed, and no mitigation is required, Reclamation may not easily justify retaining the acquired properties in federal ownership. This could ultimately result in Reclamation disposing of the acquired properties.

Another limitation of the mitigation assessment is the assumption that a constructed ALP Project would be limited to a 57,100 acre-feet flow depletion to the San Juan River. This flow depletion was identified as a key component of the reasonable and prudent alternative provided by the Service as a result of a Jeopardy Opinion rendered through formal consultation on the ALP Project under provisions of the Endangered Species Act (U. S. Fish and Wildlife Service 1991). For the purposes of this report, it is assumed that flow depletions would result from diversions from the Animas River and that the ALP project would neither deplete nor augment flows within the La Plata River study area.

Last, the assessments discussed herein were severely restricted due to time constraints limiting data collections both qualitatively and quantitatively; therefore, many of the resource issues discussed are based in part on professional judgement. Nevertheless, as discussed above, Reclamation believes the report to have sufficient information allowing for an informed decision to be made as to the value of protecting these properties either through fee title acquisition or easement agreements. If approval is given to move forward with achieving this goal, it is expected more detailed studies would be implemented to refine the assessment of resource values and plan for site-specific mitigation measures within the study area.